



Practitioner's Docket No. RVSI-013A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application of : CURTIS W. HOWES, ET AL
Application Serial No. : 09/804,811 - Group No. : 2135
FILED : 03/13/2001 - EXAMINER: TRUONG, THANHNGA B.
FOR : SECURE TRACKING OF ARTICLES :

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attention: Board of Patent Appeals and Interferences

APPELLANT'S BRIEF (41 C. F. R. section 41.37)

This brief is in furtherance of the Notice of Appeal filed in this case on October 27, 2005

The fees required under Section 1.17(c), and any required petition for extension of time for filing this brief and fees therefore are dealt with in the accompanying Transmittal of Appeal Brief.

This Brief is transmitted in triplicate [37 C. F. R. section 1.192(a)].

CERTIFICATE OF MAILING/TRANSMISSION [37 C.F.R. 1.8(a)]

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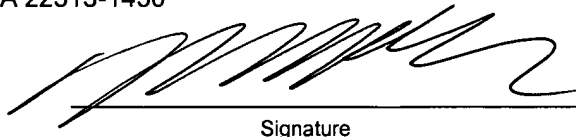
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This brief contains these items under the following headings and in the order set forth below [41 C. F. R. section 41.37 (c) (1)]

- (i). REAL PARTY IN INTEREST
- (ii). RELATED APPEALS AND INTERFERENCES
- (iii). STATUS OF CLAIMS
- (iv). STATUS OF AMENDMENTS
- (v). SUMMARY OF CLAIMED SUBJECT MATTER
- (vi). GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL
- (vii). ARGUMENT
- (viii). CLAIMS APPENDIX
- (ix). EVIDENCE APPENDIX
- (x). RELATED PROCEEDINGS APPENDIX

The final page of this brief bears the practioner's signature.

(i) REAL PARTY IN INTEREST [41 C. F. R. section 41.37(c) (1) (i)]

The real party in interest in this Appeal is:

_____ the party named in the caption of this Brief.

XXX the following party

SIEMENS CORPORATION, Inc.

(ii) RELATED APPEALS AND INTERFERENCES [41 C. F. R. section 41.37(c) (1) (ii)]

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in this Appeal:

XXX there are no such appeals or interferences.

_____ there are as follows:

(iii). STATUS OF CLAIMS [41 C. F. R. section 41.37 (c) (1) (iii)]

The status of the claims in this application are:

A. TOTAL NUMBER OF CLAIMS IN APPLICATION

Claims in the application are:56

B. STATUS OF ALL THE CLAIMS

1. Claims canceled: 1, 17 and 33
2. Claims withdrawn from consideration but not canceled: NONE
3. Claims pending :2-16, 18-32, and 34-56
4. Claims allowed : NONE
5. Claims rejected: 2-16, 18-32, and 34-56

C. CLAIMS ON APPEAL

The claims on appeal are: 2-16, 18-32 and 34-56

(iv). STATUS OF AMENDMENTS [41 C. F. R. section 41.37 (c) (1) (iv)]

1 amendment is filed, concurrently with this Brief, in the instant application subsequent to the FINAL REJECTION of 07/27/2005.

..

(v).SUMMARY OF CLAIMED SUBJECT MATTER] [41 C. F. R.section 41.37(c)(1)(v)]

The invention involved in the claims on Appeal is:

The claimed subject matter is for a secure part tracking system 20 (FIG. 1, Page 9, beginning at line 18) and the use thereof. Subscribers 24 may either utilize the internet for communication purposes or subscriber 24, and providers 22, may agree upon a fully integrated in house system 20 or one that is networked throughout that particular subscribers own facilities.

Authentication and verification apply to such systems as an integral and important part of such systems with all logins encrypted (Page 13, beginning at line 1).

A manufacturer/subscriber 40 (FIG 2) of parts to be tracked obtains unique security codes for the parts being manufactured and enters data that the part(s) have been so encoded and either shipped to a designated location or placed in inventory at the manufacturers location. If placed in inventory at the manufacturers location, the manufacturer re-enters tracking system 20 and modifies the data to show that the parts from inventory have been shipped and the location such parts were shipped to.

Each part manufacturer/subscriber 40 (FIG. 2, page 23, beginning at line 8), whenever they require a unique part identifier 42 for a part 44 that has been manufactured, or is to be manufactured logs into system 20 through their internet service provider at which time industry standard highest internet security protocols are initiated for each communication between subscriber 40 and system 20. Manufacturers that have fully-integrated, in-house systems 20, and thus do not, or may not, require an

internet service provider, still utilize appropriate protocols to insure that the party accessing system 20 and their server are authorized to use system 20 and to insure authentication and verification of the subscriber users and their computers and servers.

A trusted security component 32 (FIG. 1, page 24, beginning at line 17) authenticates the appropriate system 20 server as well as the manufacturers server. The manufacturers server, in turn, authenticates the manufacturers computer and/or digital signatures. The person accessing system 20 is also authenticated through their user name and pass code combination.

All data and information to be exchanged {page 24, beginning at line 1) between manufacturer/ subscriber 40 and system 20 is encrypted (page 24, beginning at line 2), if available through conventionally available programs incorporated into system 20, or otherwise available to system 20. Manufacturer/subscriber 40 (FIG. 2) transmits component identification data to system 20 and requests a different unique identifier 42 for each part 44 which may be transmitted over a secure virtual private network (VPN) using provided software. System 20 authenticates the manufacturer, decodes the encrypted request for unique identifier 42 and requests information that is necessary for further processing of the request from the database servers in the distributed database system. System 20, through the database servers, exchanges data with respect to the request in a manner that conforms to established business rules. The agreed upon business rules (page 24, beginning at line 10), are stored in a database of system 20 and are queried and applied automatically by system 20 with each request if pertinent to the request then being made.

System 20 (page 24, beginning at line 12) takes all necessary actions, builds a

reply message in a conventional document using the subscriber computer and browser type information to build a proper output document and streams that output to the manufacturer 40 thus providing manufacturer/subscriber 40 with a different unique identifier 42 for each part 44. System 20 also stores the component information in its central data warehouse 24 (FIG. 1). Manufacturer/subscriber 40 may thereafter proceed to mark each part 44 with its particular unique part identifier 42 utilizing appropriate and conventionally available encoded symbology (page 24, beginning at line 19) such as a bar-code or a matrix type symbology such as a DATAMATRIX. To do so, the manufacturer/subscriber may utilize conventionally available symbology marking equipment 46 to place the encoded symbology for each unique part identifier 42 assigned to each part 44 upon an appropriate substrate that is secured to part 44 or the manufacturer may directly mark such encoded symbology upon part 44 through conventionally available direct part marking equipment and techniques ((page 24, beginning at line 24). Each individual part 44 will thus carry its own unique part identifier encoded symbology 42.

System 20 subscriber/manufacturer 40 (page 25, beginning at line 3) may also utilize such parts 44, each of which carries unique security code 42 , for assembly into a sub-assembly, assembly or otherwise for incorporation into original or rebuilt or remanufactured equipment. Another subscriber/manufacturer 60 (FIG.3), however, after receiving such parts 44 (FIG. 2) with unique security coding 42 may utilize same to construct or assemble such equipment.. Alternatively subscriber 60 (FIG. 3) may utilize parts 44 (FIG. 2) as replacement parts to line install in an aircraft or otherwise when performing routine maintenance on the aircraft or its equipment; or to rebuild the

equipment that incorporates the part(s), or to rebuild, refurbish, or otherwise deal with the part.

In doing so such subscribers 40 (FIG.2, page 25, beginning at line 12), and/or 60 (FIG. 3) use a conventionally available code reader 62 at step 64 to capture the unique security code 42 (FIG. 2) from each part 44 so utilized. Thereafter the subscriber logs into system 20 with respect to subscriber 40(FIG. 2), accesses those parts 44 so utilized by their respective unique security codes 42 and requests the appropriate active actions to be taken from a list of such actions. When that is accomplished the status for each such utilized part 44 is set according to a prescribed listing..

System 20 (page 25, beginning at line 3), through data services component 26, at step 66 (FIG. 3) records the status against utilized parts 44 with their respective unique security codes 42 and informs all subscribers associated with such parts 44 of such information and latest activity. Such subscribers thereafter receive the updated data concerning such parts at step 68.

Either the same subscribers 40, 60 (page 26, beginning at line 3) or another subscriber 80 (FIG. 4) can query system 20 concerning up to the minute part location worldwide, such as at step 82 after login as described herein above. Data services component 26, at step 84, is established and provided with appropriate communications and databases to provide information and data such as after-market parts, part substitutions, part theft, etc- worldwide at any site. The information and data to be so provided will depend upon the type and use of the articles so being tracked. All subscribers utilizing system 20 know, such as at step 86, that only authorized parts flow across facilities, and only authorized parts are used at repair depots. If desired provider

22 may, as at step 88 indemnify subscribers against equipment failures as a result of unauthorized part use at facilities.

A secure tracking system for jewelry (page 26, beginning at line 13) and/or works of art might be arranged with components as described herein above or may be more easily accessed through an available conventional web browser attached to the internet. Such a tracking system could still include user and user equipment security through trusted third party authentication and verification. Status, chronological history and availability data and information would be made available to subscribers. Such a system would preferably link certificates of authentication, issued by approved and trusted industry authorities, to the article with unique article id security codes for each such article. Information and data such as for tracking, shipping, receiving, selling and retrieving are but some of the types of information and data to be provided by this type of secure article tracking system.

. (vi) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

[41 C. F. R. section 41.37 (c) (1) (vi)]

A. Whether claims 2-5, 12, 18-21,28, 34, and 37 are properly rejected under 35 U.S.C. 112, second paragraph, as not being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.;

B. Whether claims 2-16, 18-32, 34-49, 52, and 54 are unpatentable under 35 U. S. C. 102(b) as being anticipated by Rose, Jr. (US 5,521,815);

C. Whether claims 50, 51, and 55 are unpatentable, under 35 U.S.C. 103(a), over Rose, Jr. (US 5,521,815) and further in view of Priddy (US 5,984,366).

(vii) ARGUMENT [41 C. F. R. section 41.37 (c) (1) (vii)]

CLAIMS 22-5, 12, 18-21, 34 and 37

Claims 2-5, 12, 18-21, 28, 34, and 37 as now presented by the Amendment After Final are now definite and particularly point out and distinctly claim the subject matter which applicant regards as the invention; and, as such, the Examiners rejection thereof under 35 U. S. C. 112, second paragraph should be reversed.

CLAIMS 49 & 54

Claims 49 and 54 each include encryption means for encrypting logins. Rose, Jr. does not describe, show or suggest encryption of login data. The Examiner clearly recognizes that Rose only teaches that "a method of encryption can be used to further protect against fraudulent use of documentation produced by the central system" as shown by the Examiners quote at 5 a.,(2). Thus Rose is only concerned about encrypting documents produced by the system and not encryption of logins to the system as claimed. As such, rejection of claims 49 and 54 on Rose, Jr. is inappropriate since a reference used for a rejection under 102 (b) must show each and every element claimed.

CLAIMS 2-16, and 34-48

CLAIMS 2 THROUGH 16 depend either directly or indirectly from claim 49 and **claims 34-48 and 56** depend directly or indirectly from claim 54 and, as such, patentably define over Rose, Jr. for the reasons set forth with regard to claims 49 and

54. These claims additionally include subject matter which is not shown, described or suggested by Rose, Jr. and for that reason also patentably define over Rose, Jr.

CLAIMS 12 and 44, for example, includes that the article to be tracked are parts, subassemblies, assemblies, devices or mechanisms. Rose, Jr. does not show or describe a system for tracking such articles. Rose, Jr. shows and describes only two systems One such system tracks entire vehicles or boats, which already have an assigned VIN number for accurate title information and not as claimed. The other system if for jewelry, art and like items and assigns a specific number to the entire article.

CLAIMS 11 and 43, for example, includes specific categories of data to be stored which are neither shown, described or suggested by Rose, Jr.; while

CLAIMS 13, 14, and 15, include that the articles being tracked are for aircraft, automotive and military equipment respectively..

CLAIM 52, 53, 18--32

Claim 52 includes that the unique security number is applied directly to the article to be tracked and being of the material of the article. The Examiner recognizes that the claim includes that the unique security number is to be "of the material of said article" when he quotes this claim inclusion at 5.,n, ii, (1) but seems to have overlooked that Rose Jr, neither shows, describes or suggests that the serial number applied to the article is applied directly to the article and is of the material of the article.

CLAIMS 18 THROUGH 32 and 53 depend either directly or indirectly from claim 52 and, as such, patentably define over Rose, Jr. for the reasons set forth with regard

to claim 52. These claims additionally include subject matter which is not shown, described or suggested by Rose, Jr. and for that reason also patentably define over Rose, Jr.

CLAIM 28, for example, includes that the article to be tracked are parts, subassemblies, assemblies, devices or mechanisms. Rose, Jr. does not show or describe a system for tracking such articles. Rose, Jr. shows and describes only two systems One such system tracks entire vehicles or boats, which already have an assigned VIN number for accurate title information and not as claimed. The other system is for jewelry, art and like items and assigns a specific number to the entire article.

CLAIM 27, for example, includes specific categories of data to be stored which are neither shown, described or suggested by Rose, Jr.; while

CLAIMS 29, 30 and 31, include that the articles being tracked are for aircraft, automotive and military equipment respectively..

CLAIM 53 includes include encryption means for encrypting logins. As set out above Rose, Jr. does not describe, show or suggest encryption of login data. The Examiner clearly recognizes that Rose only teaches that “a method of encryption can be used to further protect against fraudulent use of documentation produced by the central system” as shown by the Examiners quote at 5 a.,(2). Thus Rose is only concerned about encrypting documents produced by the system and not encryption of logins to the system as claimed.

Thus, the Examiner has disregarded throughout these rejections that Rose, Jr. is inappropriate since a reference used for a rejection under 102 (b) must show each and

every element claimed.

CLAIMS 50, 51 and 55

Claims 50 and 55 each include that the articles to be marked are so marked with a matrix-type encoded symbology while **claim 51** includes that such matrix-type encoded symbology is marked directly to the article utilizing the material of the article. Here again Rose, Jr. neither shows, describes or suggests utilizing matrix-type encoded symbology or direct part marking. As such such claims 50, 51 and 55 patentably define over Rose, Jr. in view of Priddy (US 5,984,366)

CLAIM 56

Claim 56 is indicated as being rejected in the Office Action Summary. However, applicant is unable to find a specific basis of rejection for claim 56 in the body of the Office Action.

FOR THE ABOVE REASONS CLAIMS 2-16, 18-32, and 34-56 ALL PARTICULARLY POINT OUT AND DISTINCTLY CLAIM THE SUBJECT MATTER WHICH APPLICANTS REGARD AS THEIR INVENTION AND ALL ARE NOT ANTICIPATED BY AND PATENTABLY DISTINGUISH OVER THE ART APPLIED THEREAGAINST, ACCORDINGLY, THE EXAMINERS REJECTION SHOULD BE REVERSED, THE APPLICATION AND CLAIMS ALLOWED AND THE APPLICATION PASSED TO ISSUE AND SUCH IS COURTEOUSLY SOLICITED.

(viii). CLAIMS APPENDIX [41 C. F. R. section 41.37 (c) (1) (viii)]

The text of the claims on Appeal are:

2. The secure tracking system of claim 12 wherein said computer login means includes at least a data input means and a server means,

3 The secure tracking system of claim 12 wherein said database means may include a plurality of sub and ancillary database means each associated to some or all of the others.

4. The secure tracking system of claim 12 wherein either said secure database means, or components thereof may be accessible through the internet.

5. The tracking system of claim 12 wherein: said security database means develops and maintains a chronological history of each article being tracked from the creation of that article at least until it is destroyed.

6. The tracking system of claim 5 wherein said security database means is accessible upon request by specified users to update and retrieve data concerning said chronological histories.

7. The tracking system of claim 5 wherein said security database means also includes chronological histories concerning devices, mechanisms and the like, which include said articles to be tracked, and which are also accessible to specified users upon request.

8. The tracking system of claim 7 wherein said security database means in addition includes data and information concerning equipment that includes such devices, mechanisms and the like which, in turn, include said articles to be tracked and which are accessible to specified users upon request.

9. The tracking system of claim 8 wherein said data and information concerning equipment and said chronological histories concerning devices, mechanisms and the like may be obtained through ancillary databases that are searchable to the system.

10. The tracking and security system of claim 9 wherein said security database means includes business rules, data and information that are correlated to specified user requests such that only certain users can input, update and/or search only specified portions of said security database means.

11 The tracking and security system of claim 6 wherein said chronological histories may include data and information, for each article to be tracked, such as register, manufacture, mark, store, ship, receive, pack, unpack, install, remove, modify, repair, overhaul and/or scrap or any combination of same.

12 The tracking and security system of claim 49 wherein the articles to be tracked are parts, subassemblies, assemblies, devices or mechanisms, or combinations thereof.

13 The tracking and security system of claim 12 wherein such articles to be tracked are for use in aircraft.

14. The tracking and security system of claim 12 wherein such articles to be tracked are for automotive equipment.

15. The tracking and security system of claim 12 wherein such articles to be tracked are for use in military equipment.

16. The tracking and security system of claim 6 wherein said chronological histories are for items of jewelry and/or works of art and may be correlated to certificates of authentication for such items of jewelry and/or works of art and may further include data and information such as tracking, shipping, receiving, selling, retrieving fake or bogus or lost or stolen.

18. The secure tracking system of claim 53 wherein said computer login device includes at least a data input and a server,

19 The secure tracking system of claim 53 wherein said database may include a plurality of sub and ancillary databases each associated to some or all of the others.

20. The secure tracking system of claim 53 wherein either said secure database, or components thereof may be accessible through the internet.

21. The tracking system of claim 53 wherein: said security database develops and maintains a chronological history of each article being tracked from the creation of that article at least until it is destroyed.

22. The tracking system of claim 21 wherein said security database is accessible upon request by specified users to update and retrieve(previously presented)ve data concerning said chronological histories.

23 The tracking system of claim 21 wherein said security database also includes chronological histories concerning devices, mechanisms and the like, which include said articles to be tracked, and which are also accessible to specified users upon request.

24 The tracking system of claim 23 wherein said security database in addition includes data and information concerning equipment that includes such devices, mechanisms and the like which, in turn, include said articles to be tracked and which are accessible to specified users upon request.

25 The tracking system of claim 24 wherein said data and information concerning equipment and said chronological histories concerning devices, mechanisms and the like may be obtained through ancillary databases that are searchable to the system.

26 The tracking and security system of claim 25 wherein said security database includes business rules, data and information that are correlated to specified user requests such that only certain users can input, update and/or search only specified portions of said security database means.

27. The tracking and security system of claim 22 wherein said chronological histories may include data and information, for each article to be tracked, such as register, manufacture, mark, store, ship, receive, pack, unpack, install, remove, modify, repair, overhaul and/or scrap or any combination of same.

28 The tracking and security system of claim 53 wherein the articles to be tracked are parts, subassemblies, assemblies, devices or mechanisms, or combinations thereof.

29 The tracking and security system of claim 28 wherein such articles to be tracked are for use in aircraft.

30. The tracking and security system of claim 28 wherein such articles to be tracked are for automotive equipment.

31 The tracking and security system of claim 28 wherein such articles to be tracked are for use in military equipment.

32 The tracking and security system of claim 22 wherein said chronological histories are for items of jewelry and/or works of art and may be correlated to certificates of authentication for such items of jewelry and/or works of art and may further include data and information such as tracking, shipping, receiving, selling, retrieving fake or bogus or lost or stolen.

34 The method of claim 56 including providing at least a data input device and a server for logging into said system.

35 The method of claim 34 including providing a plurality of sub and ancillary databases each associated to some or all of the others.

36 The method of claim 35 including accessing either said secure database means, or components thereof through the internet.

37. The method of claim 56 including utilizing said security data base means to develop and maintain a chronological history of each article being tracked from the creation of that article at least until it is destroyed.

38 The method of claim 37 including accessing said security database by request of specified users to update and retrieve data concerning said chronological histories.

39 The method of claim 38 including inputting said security database means to also include chronological histories concerning devices, mechanisms and the like, which include said articles to be tracked, and which are also accessible to specified users upon request.

40 The method of claim 39 including obtaining said security database with data and information concerning equipment that includes such devices, mechanisms and the like which, in turn, include said articles to be tracked and which are accessible to specified users upon request.

41 The method of claim 40 including also providing said data and information concerning equipment and said chronological histories concerning devices, mechanisms and the like through ancillary databases that are searchable to the system.

42. The method of claim 41 including providing said security database with business rules, data and information that are correlated to specified user requests such that only certain users can input, update and/or search only specified portions of said security database.

43 The method of claim 38 including unputting said chronological histories with data and information, for each article to be tracked, such as register, manufacture, mark, store, ship, receive, pack, unpack, install, remove, modify, repair, overhaul and/or scrap or any combination of same.

44 The method of claim 43 wherein the articles to be tracked are parts, subassemblies, assemblies, devices or mechanisms, or combinations thereof.

45 The method of claim 44 wherein such articles to be tracked are for use in aircraft.

46 The method of claim 44 wherein such articles to be tracked are for automotive equipment.

47 The method of claim 44 wherein such articles to be tracked are for use in military equipment.

48. The method of claim 38 including inputting said chronological histories with data and information for items of jewelry and/or works of art and may be correlated to certificates of authentication for such items of jewelry and/or works of art and further inputting data and information such as tracking, shipping, receiving, selling, retrieving fake or bogus or lost or stolen.

49 A secure article tracking system, comprising:

- a. computer login means for permitting a user to login to the system;
- b. encryption means for encrypting all said logins;
- c. secure database means for receiving the login to verify and authenticate said user and said computer login means; and
- d. security number database means for assigning a unique security number for each article to be tracked.

50. The tracking system of claim 12 wherein the articles to be tracked are marked with a matrix-type encoded symbology

51. The tracking system of claim 50 wherein said matrix-type encoded Symbology is marked directly to the article utilizing the material of the article.

52. A secure article tracking system, comprising:
- a. a computer login device for permitting a user to login to the system;
 - b. a secure database for receiving the login to verify and authenticate the user and computer login;
 - c. a security number database for assigning a unique security number for each article to be tracked; and
 - d. said unique security number being applied directly to the article to be tracked and being of the material of said article.

53 The secure article tracking system of claim 52 including encryption means for encrypting all said logins.

- 54 A method to securely track articles, comprising at least the steps of:
- a. providing a secure article tracking system;
 - b. providing said system with at least a secure database;
 - c.. logging into said secure database;
 - d. encrypting all said logins;
 - e. authenticating and verifying each such login; and
 - f. assigning a unique number for each article to be tracked.

55. The method of claim 54 including marking each of the articles to be tracked with a matrix-type encoded symbology.

56 The method of claim 55 including applying said matrix-type encoded symbology directly to the article utilizing the material of the article.

(ix). EVIDENCE INDEX [41 C.F.R. section 41.37 (c) (1) (ix)]

The evidence includes the following USA Patents:

Rose, Jr. US 5,521,815

Priddy US 5,984,366

(x) RELATED PROCEEDINGS APPENDIX[41 C. F. R. section 41.37 (c) (1) (x)]

There are no related proceedings.

Respectfully submitted,

March 27, 2006

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A handwritten signature in black ink, appearing to read 'Morris I. Pollack', with a stylized, cursive script.

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Attorney of Record